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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE JESUS CHAVEZ HERNANDEZ; et  
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74117

Agency Nos. A75-639-964  
A76-715-627

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted March 10, 2008\*\*

Before: T.G. NELSON, TASHIMA and BYBEE, Circuit Judges.

Petitioners seek review of a Board of Immigration Appeals' ("BIA")  
decision denying their motion to reopen as untimely.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

We review the BIA's denial of motions to reopen or to reconsider for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The BIA did not abuse its discretion in denying petitioners' motion to reopen as untimely. *See* 8 C.F.R. § 1003.2(c). The motion was filed on April 17, 2007, over ninety days after the BIA's final administrative order of removal issued on July 20, 2006. *See* 8 C.F.R. § 1003.2(c)(2).

Respondent's unopposed motion for summary disposition in part is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Accordingly, this petition for review is denied in part.

Respondent's unopposed motion to dismiss in part is granted because the court lacks jurisdiction over petitioners' challenge to the BIA's decision not to exercise its discretionary authority to reopen sua sponte. *See Ekimian v. INS*, 303 F.3d 1153, 1158-59 (9th Cir. 2002). Accordingly, the petition for review is dismissed in part.

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED in part and DISMISSED in part.**